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U.S. Serial No. 09/761,203
Response to the Office action of August 17, 2005**Remarks**

Claims 1-33 are pending and at issue in the above identified patent application. Of the claims at issue, claims 1, 27, and 32 are independent. In view of the foregoing amendments and the following remarks, reconsideration of the application is respectfully requested.

The Rejections Under 35 U.S.C. §§ 102 & 103

Claims 1-7, 17, 18, 20, 23-25, 32, and 33 were rejected as unpatentable over Kikuchi (US 6,577,811) in view of Pijnenburg (US 6,169,842). Additionally, claims 10 and 27 were rejected as unpatentable over Kikuchi in view of TIVO Manual for HDR110 (TIVO Manual). It is respectfully submitted that claims 1-33 are allowable over the cited portions of the references for the reasons set forth below.

Claims 1-26 and 32-33

Independent claims 1 and 32 recite, *inter alia*, a memory for storing a plurality of selectable status parameters indicating functionality of the digital video recording device, wherein one of said plurality of selectable status parameters is a current delay feature which displays how far a recording is behind a live broadcast when a signal corresponding to the live broadcast is paused. As detailed below, neither Kikuchi nor Pijnenburg discloses or suggests such a recitation.

As noted in a prior response, Kikuchi is directed to a recorded content protection scheme for a digital recording/reproducing system. In particular, Kikuchi discloses various aspects of a system used to record television or other programming onto an optical medium. The Office action concedes that Kikuchi fails to teach how far a recording is behind a live broadcast when a signal corresponding to the live broadcast is paused.

To cure this admitted deficiency, the Office action turns to Pijnenburg. Pijnenburg is directed to a recording and reproducing system for simultaneously recording and reproduction via an information carrier. In particular, Pijnenburg teaches that buffers may be used for buffering information during recording and/or reproduction. The Office action cites Pijnenburg 3:53-4:67 for teaching of "a current delay feature which displays how far a recording is behind a live-broadcast that is-in progress when a signal corresponding to live

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broadcast in paused." However, the cited portions of Pijnenburg do not teach that the indicator of Pijnenburg displays when a live broadcast is paused. In contrast, Pijnenburg only teaches display of such an indicator when a fast forward operation is in progress. In particular, Pijnenburg teaches that when a watcher is called away, he/she may press a pause key. The pause key results in the start of a recording. (Pijnenburg, 3:55-59). Further, when the viewer in Pijnenburg returns, he/she presses a resume key, so that simultaneous reproduction (from the moment of being called away) starts and recording continues. (Pijnenburg, 3:59-62). To this point, Pijnenburg has not taught that a current delay could or should be displayed. Pijnenburg further describes that when a commercial is shown, the viewer using the Pijnenburg system presses a fast forward key so that the commercial is partly skipped. (Pijnenburg, 3:62-64). It is at this point in the operation of Pijnenburg (i.e., after the pressing of the fast forward key) that Pijnenburg teaches that "an indicator on the system may then indicate how much time the user still lags behind for the live broadcast." (Pijnenburg, 64-66). Thus, Pijnenburg fails to teach or suggest that the current delay could or should be presented when the live broadcast is paused. Rather, the cited portions of Pijnenburg are focused on displaying the time lag during fast forwarding.

It is well established that the prior art must teach or suggest each of the claim elements and must additionally provide a suggestion of, or an incentive for, the claimed combination of elements to establish a *prima facie* case of obviousness. See *In re Oetiker*, 24 USPQ. 2d 1443, 1446 (Fed. Cir. 1992); *Ex parte Clapp*, 227 USPQ. 972, 973 (Bd. Pat. App. 1985); *In re Royka*, 490 F.2d 981 (CCPA 1974) and M.P.E.P. § 2143. In the instant case, neither Kikuchi, nor Pijnenburg teaches or suggests that the current delay feature is displayed while a live broadcast is paused. Thus, this combination cannot render obvious claims 1 and 32, or any claims depending therefrom.

Claims 27-31

Claim 27 has been amended to recite that one of said plurality of selectable status parameters is a live/recorded status feature that displays on a display screen for a predetermined period of time text indicating whether a program being viewed is either live or recorded. It is respectfully submitted that the graphical bar in the TIVO manual is not text that is displayed for a predetermined period of time that indicates whether the program being

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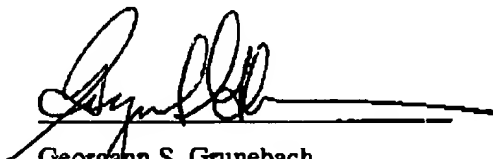
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viewed is live or recorded. Thus, it is respectfully submitted that claim 27 and all claims dependent thereon are allowable over the combination of the TIVO Manual and Kikuchi.

Reconsideration of the application and allowance thereof are respectfully requested. If there is any matter that the examiner would like to discuss, the examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,



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